

The Criminal Justice Coordinating Council Network Mini-Guide Series: **DECREASING THE STRAIN OF VIOLATIONS OF PROBATION**



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The CJCC Network Mini-Guide Series: Decreasing the Strain of Violations of Probation

By: Aimee Wickman and Clarissa Dias

In times of limited budgets, staff cuts, and space constraints, criminal justice systems are developing creative approaches to enhance cost-effectiveness and efficiency. One such approach is Violation of Probation (VOP) courts which have, in many jurisdictions, relieved court calendars, increased the swiftness and efficiency of the court process for users of the system, eased or prevented jail overcrowding, and increased the accountability of probationers.

VOP courts allow probationers accused of new non-violent, non-serious offenses to settle early in the process, leaving courts more time to handle more serious cases. As a result of early resolution, probationers spend less time in jail, relieving space, and reducing costs associated with supervision. Most importantly, VOP court judges focus their time on monitoring cases, increasing accountability among probationers and providing a more swift and certain court process for everyone involved. Because VOP courts focus solely on probation violation cases, judges have the ability to hand down meaningful and appropriate sentences for violators.

Some may describe VOP courts as specialty courts, yet this label is a misnomer. Not providing additional, specialized services to offenders, VOP courts are more accurately described as a *differentiated case management*¹ strategy. By directing a certain class of similar cases through a common process, VOP courts can and do play a significant role in promoting greater efficiency and fairness in case processing, which benefits the court and those people involved in these cases.^{2,3,4,5,6} Probation violations are excellent candidates for a differentiated case management approach, because they do require less court oversight and take less time to dispose. Even so, these cases consume a substantial portion of total court workload.⁷ Often times, these hearings are added to already overloaded court calendars and individuals and probation officers spend significant amounts of time waiting for the relevant case to be called. In a National Institute of Corrections project looking at policy-

¹ David Steelman of the National Center for State Courts defined Differentiated case management (DCM) as an approach by which a court distinguishes among individual cases in terms of the amount of attention they need from judges and lawyers and the pace at which they can reasonably proceed to conclusion. For more information about DCM, see Steelman, D. (2008). *Improving Caseflow Management: A Brief Guide*. Williamsburg, VA: National Center for State Courts.

² Rhine, E. (1993). *Reclaiming offender accountability: Intermediate sanctions for probation and parole violators*. Laurel, MD: American Correctional Association.

³ Mahoney, B., Aikman, A., Casey, P., Flango, V., Gallas, G., Henderson, T., . . . Weller, S. (1988). *Changing Times in Trial Courts*. Williamsburg: National Center for State Courts.

⁴ Center for Effective Public Policy, Pretrial Justice Institute, Justicement Management Institute, The Carey Group. (2010). *A Framework for Evidence Based Decision Making in Local Criminal Justice Systems* (3rd. Edition). (NIC Library ID 024372). Retrieved from the National Institute of Corrections website: <http://nicic.gov/Library/024372>.

⁵ Church, T., Carlson, A., Lee, J., Tan, T. (1978). *Justice Delayed: The Pace of Litigation in Urban Trial Courts*. Williamsburg, VA: National Center for State Courts.

⁶ Solomon, M. (2008) *Improving Criminal Caseflow: Bureau of Justice Assistance Criminal Courts Technical Assistance Project*. Washington, DC: American University.

⁷ Burke, P. (1997). *Policy-Driven Responses to Probation and Parole Violations*. Silver Spring, MD: Center for Effective Public Policy (NIC Library ID 013793). Retrieved from the National Institute of Corrections website: <http://nicic.gov/Library/013793>.

directed sanctions for violators, it was found that the “equivalent of a full-time judge, prosecutor, and courtroom staff and more than two full-time probation officers was consumed by the various stages of the probation violation process.”⁸

In this article of the Criminal Justice Coordinating Council (CJCC)⁹ Network mini-guide series,¹⁰ we showcase the Sacramento County, California Violation of Probation In Lieu Night Court, a VOP court that has brought significant cost and operational savings to their criminal justice system. In 2011, Sacramento County was awarded the National Association of Counties (NACo) Achievement Award because of its success in using this innovative approach.¹¹ The court allowed the county to save \$12.6M (\$5.7M in courtroom costs and \$6.9M in jail bed days) by reducing the number of court appearances and the average time probation violators spent in jail waiting for resolution of their cases.

Lynn Wynn, Principal Administrative Analyst for the Criminal Justice Cabinet (CJC) and Community Corrections Partnership in Sacramento, California, shares with us in this article the decision, design, and implementation process for its VOP court and what they have learned since it started five years ago. As Wynn will attest, Sacramento’s CJC was instrumental in making their court a successful reality. Sacramento’s Cabinet was formed in 1992 and, like most CJCCs, consists of members from the various criminal justice agencies in the area and convenes a variety of subcommittees which focus on particular practice and policy areas.¹² According to its mission:

“The Cabinet is committed to providing the coordinated leadership necessary to establish cohesive public policies which are based on research, evaluation and monitoring of policy decisions and program implementations. The Cabinet is committed to innovative corrections programs for adult and juvenile offenders. Through a coordinated planning effort the Cabinet reviews, evaluates and makes policy recommendations on vital criminal justice system issues.”

Like councils from many jurisdictions, Sacramento sought to provide its community with a coordinated and collaborative effort to strengthen and improve the criminal justice system which includes enhancing the delivery of justice and decreasing unnecessary costs. The VOP court grew from that mission and reaffirms that CJCCs create an environment where innovations are made possible. Yet, like most work of CJCCs, changing policy or implementing a particular initiative is rarely a simple task.

⁸ Burke, P. (1997). *Policy-Driven Responses to Probation and Parole Violations*. Silver Spring, MD: Center for Effective Public Policy (pp. 3). (NIC Library ID 013793). Retrieved from the National Institute of Corrections website: <http://nicic.gov/Library/013793>.

⁹ “Criminal Justice Coordinating Council,” or CJCC, is the term used in this article to refer to the full array of informal and formal committees known by a variety of names across the United States that provide a forum for key justice system agency officials and other general government officials to address criminal justice system issues.

¹⁰ This Mini-Guide Series is being presented by The Justice Management Institute as part of the National Criminal Justice Coordinating Council Network project. For more information, please visit: www.jmijustice.org.

¹¹ A summary of Sacramento’s VOP Court can be downloaded at <http://tinyurl.com/SACVOPCourt>.

¹² For more information on the work of CJCCs, see Wickman, A., Mahoney, B., Barokove, M. *Improving Criminal Justice System Planning and Operations: Challenges for Local Governments and Criminal Justice Councils*. Arlington, VA: The Justice Management Institute. Retrieved from the website: <http://tinyurl.com/JMICJCCs>.

Read our interview with the Cabinet's Lynn Wynn below and learn more about how they made this idea into a successful reality. You should also check out Sacramento's brief YouTube video summarizing their VOP Court: [Click here for video](#).

Why did Sacramento create a Violation-of-Probation (VOP) Court?

The District Attorney went to the Criminal Justice Cabinet with an idea for a VOP Court. Ultimately, they presented this proposal to the Board of Supervisors in 2007 to fund a pilot project. The District Attorney argued that if resources could be dedicated to concentrate on the rapid adjudication of these cases, it would still hold probationers accountable while reducing court costs. Cases would have earlier resolutions, avoid new arrests, and reduce the number of jail bed days. Staff could then focus shrinking resources on more important cases. The VOP court handles both technical and criminal violations, with technical violations accounting for about 35 percent of the docket.

Lynn Wynn is the Principal Administrative Analyst for the Criminal Justice Cabinet and Community Corrections Partnership in Sacramento, California

How has the VOP court worked?

We are very proud of our program and its outcomes. Sacramento's VOP court has already won two awards: 2011 California State Association of Counties Challenge Award and 2011 NACo Achievement Award. Several articles have also been written in the local newspaper, The Sacramento Bee, about the success of the program. The Court began as a six-month pilot in January 2008 and is now in its fifth year of operation.

The Cabinet collected data for the first two years and demonstrated that the court produced greater efficiency and cost savings. Among the data collected were:

- Number of cases in VOP court vs. typical court (for comparison)
- Types of crimes committed on new arrest
- Number of court appearances
- Number of jail bed days
- Cost of staffing

The data revealed a number of benefits to diverting probation violation cases to a single court. These included:

- Reduced time to handle cases: 2-3 appearances vs. 10-20 or more
- Reduced number of jail bed days: from average of 35 days in jail to average of 12 days in jail
- Same resolutions: No difference between VOP court resolutions and those that would have been received on filing charges on a new arrest
- Greater accountability: Focused attention on VOP cases and probationers to hold them accountable (where there was none before)

- **Reduced court calendars:** By diverting these cases away from regular courtrooms, it reduces the number of cases on daily court calendars, so they have more time to focus on the remaining cases

Overall, the VOP court has yielded huge cost savings in the courts and cost avoidance by reducing jail bed days (See Figures 1 and 2). These data are no longer collected by the Cabinet, since the VOP court is fully operational. The VOP court is now responsible for tracking these data.

Figure 1. Cost savings to the courts

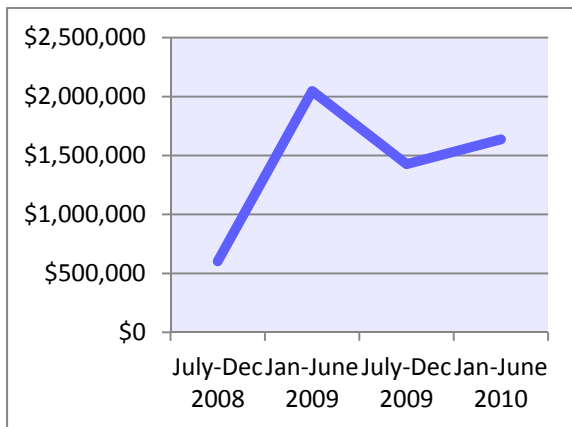
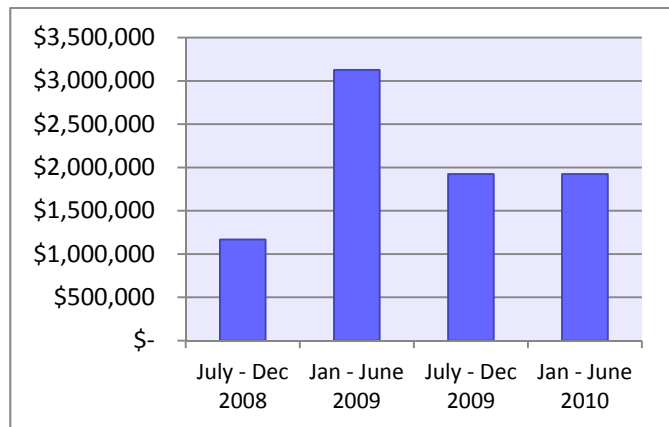


Figure 2. Cost savings based on avoided jail bed stays



How does the VOP court work?

Court is held Monday through Thursday from 4 – 7 pm at the jail courthouse. We opted for night court, because operationally we did not have a daytime courtroom that was available. It would also have been difficult for the sheriff’s security/transportation staff to handle the volume of cases to transport in custody inmates for the VOP court during the day due to current workload. Staffing resources were constrained during the day due to regular workload. Although the court operates in the evenings, staff like the different schedule (e.g., not caught up in the regular commute traffic, etc.). Also, the court calendar is less congested.

Dedicated staff who have experience with these kinds of cases are assigned to the VOP court. These include:

- Judge, clerk, bailiff, court reporter;
- Sheriff’s security/transportation staff;
- District Attorney staff (usually one deputy district attorney);
- Public Defender staff (usually one deputy public defender).

Probation did participate in the first year, but it had to drop out due to budget cuts. All of the parties meet prior to hearing the cases to discuss proposed actions at the hearing. These conferences speed up the court hearing process, and indeed cases usually resolve in 2-3 appearances. The judge considers the probationer's past compliance and the current conditions of probation. The judge may also make calls for program referrals. When probation had a dedicated officer in the courtroom, that individual would:

- provide case background on the defendants related to the probation status and other case information;
- review the filed petitions to determine basis of allocations;
- contact the probation officer to get a summary of the defendant's previous case and ask him or her what he or she would be willing to accept for resolution of the case; and
- forward the information or participate in conference with DA/PD and the judge for input.

How did Sacramento plan and design the VOP court?

After the initial proposal from the district attorney, the Cabinet held planning meetings for three months, then started the court as a pilot for six months. The initial planning process involved:

1. Having all the stakeholders work together on the operational principles of the program
2. Deciding what would work and what would not
3. Identifying barriers that needed to be addressed and overcome
4. Meeting with labor unions since, because the court is a "night court," we needed to address the issue of overtime and needing employees to work different shifts to cover the court operations

The planning process included the following criminal justice members::

- Court (judges, clerks, operations managers, court executive officer)
- District Attorney (executive staff and attorneys)
- Public Defender (executive staff and attorneys)
- Probation (executive staff and probation officers)
- Sheriff (executive staff and transportation/security officers)
- Criminal Justice Cabinet staff (acted as project manager to implement program)

We really did not have any trouble gaining support, because everyone believed in the program and wanted to make it work. The VOP court made so much sense as a way to reduce the time needed to resolve cases, reduce use of staff resources, and reduce the number of jail bed days.

Before we developed the operational plan, we needed to convince the Board of Supervisors to provide general fund money for the program. Although the Cabinet asked for one year of funding, we received six months of funding for the pilot. After that, funding was eliminated due to budget reductions. However, the court has continued to function on in-kind resources from the court, district attorney, and public defender because of its success. The Cabinet also acted as project manager during the early years and collected/analyzed data on the program to determine effectiveness and if it was meeting expectations.

What have been the biggest hurdles in planning or implementation?

- Finding a courtroom because none were available;
- Once it was determined that it would be a night court, deciding operationally how it could/would work;
- Identifying the types of crimes that would be allowed to be referred to the VOP court (this was a DA decision); and
- Working with labor unions on change in practices and work schedules.

What are the ingredients for the successful implementation of a VOP court?

1. Identification of the stakeholders and key department heads/elected/judges and generating buy-in from everyone at the highest level
2. Cooperation and collaboration among justice stakeholders
3. Agreement on the purpose/vision of the court
4. Private discussions with individuals about the pros/cons to the project, because they will tell you things in private that they might not say in a public meeting (gives an opportunity for feedback on things that have worked and for questions)
5. A smaller pilot to get things started which allowed us to tweak/change processes quickly to improve the operational process
6. Regular meetings to identify project timeline, operational issues to be worked through, barriers, etc.
7. Support staff for meetings to help develop the program

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